

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO**



In the matter of the Search of

Case No. 22-MR-1161-JFR

INFORMATION THAT IS STORED AT
PREMISES CONTROLLED BY GOOGLE,
1600 AMPHITHEATRE PARKWAY,
MOUNTAINVIEW, CALIFORNIA 94043

Filed Under Seal

GOOGLE LLC'S REPLY IN SUPPORT OF MOTION TO QUASH

Google filed this motion to quash in response to a geofence warrant that impacted thousands of users and targeted sensitive locations, including hundreds of homes and numerous places of worship, most notably the Islamic Center of New Mexico, searched during the funerals of two community members, which were attended by more than a thousand individuals. The Court issued the warrant, which relates to the homicides of four members of the Albuquerque Muslim community, before the Government identified and arrested its primary suspect, Muhammad Atif Syed. Following Google's receipt of the warrant on August 7, 2022, and Muhammad Syed's subsequent arrest on August 8, Google engaged with the Government to explain its serious constitutional concerns with the warrant, including that the search (i) sweeps in nearly 3,100 devices; (ii) targets hundreds or more homes and numerous places of worship, among other private and protected areas; and (iii) extends far beyond areas of suspicion, thereby subjecting thousands of people to the Government's scrutiny merely by virtue of their having been within hundreds of meters of some area of interest.

The Government refused to withdraw or obtain an amended warrant. From the time of Muhammad Syed's arrest on August 8 until Google filed its motion on September 7, the Government maintained that a geofence search was appropriate, despite substantial developments in its investigation (including the arrest of Muhammad Syed's son, Shaheen Syed, on August 9,

and the Government's request that he be detained for his possible involvement in the homicides), because the Government could not rule out the possibility that other yet-unidentified suspects may have been involved in the crimes. As to overbreadth, the Government was adamant that the broad search areas were necessary to help exclude from scrutiny individuals unrelated to the investigation. Based on the Government's unwavering refusal to withdraw and its ongoing insistence that the warrant was constitutionally sound, Google filed the motion to quash before the Court.

And yet, rather than respond to Google's motion to quash, the Government has now withdrawn the warrant. The Government asserts that the warrant "is perfectly consistent with the mandates of the Fourth Amendment," but claims that it has withdrawn it "in part because the investigation has progressed." Gov't Resp. at 1–2.

This is the second time in a three-month period that Assistant United States Attorneys in this District have staunchly defended a geofence warrant in discussions with Google only to withdraw, rather than defend, the warrant after Google filed a motion to quash. Google strongly suspects that this is not the last time the constitutional issues raised by geofence warrants will be before the Court. Whether that time comes when the Government seeks an amended warrant in this matter or when it seeks a geofence warrant in another investigation, the serious constitutional issues these warrants raise will benefit from the Court's oversight.

WIGGINS, WILLIAMS & WIGGINS
A Professional Corporation

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We hereby certify that a copy
of the foregoing was emailed to Kimberly Brawley
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on this 19th day of October 2022.

WIGGINS, WILLIAMS & WIGGINS, P.C.

By /s/ Lorna M. Wiggins
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